UNITED
NATIONS

CRC

Convention on the
Rights of the Child

Distr.
GENERAL

CRC/C/SR.457
24 June 1998

ENGLISH
Original: FRENCH

COMMITTEE ON THE RIGHTS OF THE CHILD

Eighteenth session

SUMMARY RECORD OF THE 457th MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 20 May 1998, at 10 a.m.

Chairperson: Mrs. KARP

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GE.98-16304 (E)

The meeting was called to order at 10.05 a.m.

CONSIDERATION OF REPORTS OF STATES PARTIES (agenda item 4) (continued)

Initial report of Hungary (continued) (CRC/C/8/Add.34; HRI/CORE/1/Add.11; CRC/C/Q/HUN/1; CRC/C/A/HUN/1)

1. At the invitation of the Chairperson, the members of the delegation of Hungary resumed their places at the Committee table.

2. The CHAIRPERSON invited the Committee members to ask questions and comment on special protection measures.

3. Mrs. PALME said she wished to ask a question in relation to article 34 of the Convention about the sexual exploitation of children. Knowing that Hungary had taken part in the World Congress against Commercial Sexual Exploitation of Children and endorsed its Declaration and Agenda for Action, she would like to know whether it had implemented that agenda?

4. Mr. RABAH said he wished to ask some questions about children in conflict with the law and, more specifically, about the administration of juvenile justice. As there was no separate criminal justice system for juveniles in Hungary, he asked how the police and courts dealt with young offenders. What was the status of the prosecutor attached to the juvenile court. And why was it obligatory for the prosecutor, who was appointed by the Attorney-General, to attend the trial? As the authors of the report themselves admitted, no coherent system to prevent juvenile delinquency yet existed in Hungary. Did that mean that there were plans for introducing a system of that kind in the future? If so in the delegation's view, what form would it take?

5. Had the Hungarian rules on detention produced good results to date? In what type of institution were minors detained? Were there detention centres reserved for minors or were they held in custody with adults?

6. Mr. KOLOSOV observed that drug and alcohol abuse was on the increase in eastern Europe and asked if any studies had been conducted in Hungary to try to explain that trend. Had the Hungarian Government taken preventive measures? Could it propose a solution?

7. The CHAIRPERSON, referring to article 39 concerning the right to rehabilitation, asked whether Hungary had sufficient professional staff in that field. It was a known fact that there was a shortage of probation officers, for example. How were rehabilitation services organized? Did rehabilitation methods take account of specific case histories (drug abuse, or commercial sexual exploitation)? Were rehabilitation services available to all?

8. What was the position with regard to disabled children? What was the procedure for placing a child in a psychiatric hospital? Could the child object to such hospitalization? Did machinery exist to ensure that a child was placed in a psychiatric hospital only as a last resort, when no other treatment was available?

9. Were there any plans for programmes to promote the social reintegration of street children? She understood that many people were experiencing more and more difficulty in obtaining housing. Did the Hungarian Government's policies take account of that fact?

10. She noted that a family was apparently entitled to offer a child for adoption even before he or she was born. Was that compatible with the principles of the Convention and the best interests of the child? Had the Convention been translated into minority languages? She wished to know more about the possibility of deciding on a penalty without a trial. How were a young person's rights protected in that case? In view of the fact that the age of criminal responsibility was set at 14, what services were offered to children under 14 to prevent them turning to crime? With regard to alternatives to imprisonment, she asked why community service was not mentioned in the range of punishments at Hungary's disposal. If it was possible to order a minor to perform community service, were judges made aware that that alternative was preferable to a custodial sentence? She understood that children were entitled to legal assistance. How did that work in practice? How long did they have to wait before they could be sure of obtaining such assistance? Before the recent amendments to the law, defence counsel had been appointed within three days. The law now laid down that counsel must be placed at the disposal of the minor before he appeared in court. What consequences did that amendment have? Were there any provisions concerning the child's criminal record? How was it drawn up? Did it exist throughout the child's life? Was the information contained in it deleted after a certain time? Were there any appeal channels within the prison system which guaranteed that complaints were examined impartially? Was the supervision of conditions of detention laid down by law? If so, what were the rules? Did the courts have a role to play in that respect?

11. Mr. HERCZEGH (Hungary), replying to the question concerning child prostitution and government action in that area, said that that matter had been discussed in detail by the Coordination Council in December 1997. The measures being taken aimed, as a priority, to increase the penalties in Hungarian legislation for child prostitution and, especially, child pornography. They also included studies to determine the causes of prostitution, and also educational measures in schools and the media. He stressed the great importance of international cooperation in that area. During the previous year 48 studies on the situation of children and young people in Hungary had been presented by the research group set up to examine those issues. Twelve of the studies had dealt entirely or in part with child prostitution. They had shown that the two main causes of the phenomenon were the social situation of the parents and the market. His Government was endeavouring to provide social assistance to those families which needed it. The situation with respect to the market was more complex. The studies had shown that the majority of children engaging in prostitution were not of Hungarian origin. Moreover, their adult clients also came from other countries. The pornographic films made in Hungary were shown in certain western European countries. Approximately one month earlier, a special meeting of Interpol had been held in Hungary. The first item on the agenda had been prostitution and, in particular, child prostitution.

12. With regard to preventive and rehabilitative measures to combat drug and alcohol abuse, he said that Hungary had a National Health Institute under the aegis of the Ministry of Social Welfare, which had a network extending over the whole country and was responsible for the rehabilitation of children with those problems. Within the network, there was an adequate number of highly skilled professionals, who received continuous training. Almost 100 NGOs were also active in that area, although lack of financial resources sometimes limited the scope of their activities. The important role in rehabilitation played by the various religious groups, both Catholic and Protestant, should also be underlined.

13. There had been a misunderstanding at the previous meeting when he had spoken of children being on the streets. He had not been referring to street children, who did not at present constitute a problem in Hungary, but to children on school vacation from June to September whose parents were at work. Those children were now able once again to spend part of their vacation at a holiday camp, as they had before 1989. Schools also organized activities during the summer. In any event, Hungary did now have centres for homeless children. The professionals who worked there attempted to bring some stability to the lives of those children either by placing them in an institution or by finding some other solution. He admitted that Hungary did have some street children, but there were only a handful as yet. All the same, it was necessary to make every effort to ensure that the situation did not deteriorate.

14. Replying to the question concerning the adoption of children before birth, he said that the practice was unusual and was intended as a means of preventing abortions. There was also a system which enabled mothers who decided not to keep their baby to leave it in one of the incubators which had been installed at the entrance of many hospitals. Obviously, that measure was intended as a last resort to reduce both infant mortality and the number of abortions.

15. In Hungary, as a general rule, children took part in decisions which affected them. While children with disabilities might not have the same capacity to articulate their point of view, there were procedures and methods of a psychological nature which could be used to ascertain their reaction to certain decisions. In his view, the legislation was sufficiently flexible to allow a decision to be reviewed if, for example, it became clear that institutional treatment was counter-productive. The only way of integrating children with disabilities in society was to be flexible in decisions which concerned them since their situation changed from day to day and it was impossible to take a long-term decision.

16. His Government had not translated the Convention into the minority languages. There was a problem with respect to the Rom population, among whom three different dialects were spoken. It should, however, be possible to prepare pamphlets containing the text and principles of the Convention in a language accessible to the Roma. He was sure, moreover, that if the Committee made a recommendation to that effect, the Hungarian authorities would ensure, in cooperation with the Office of National and Ethnic Minorities, that a publication along those lines was made available to Rom children.

17. Lastly, as far as rehabilitation was concerned, Hungary had a network of social workers which included many young specialists. Those specialists were grouped together in their own professional association, and also in an NGO that attended the Round Table meetings to which reference had been made at the previous meeting. In 1998, the NGO had joined together with the 12 members of the Round Table negotiating group. That would enable it to campaign for the allocation of more resources to social reintegration programmes.

18. Mr. SZABO (Hungary) said that there were 110,000 young drug users, 30,000 of whom were actually drug addicts. Their rehabilitation was essentially undertaken by a number of religious and civil institutions, since public hospitals could provide only 140 beds for that purpose. Those institutions also dealt with alcohol-related problems. Specialized social workers from the social welfare service kept track of street children. The Government had also introduced a programme of educational summer camps.

19. With regard to Rom children, 67 per cent of them - as against 87-92 per cent of the child population as a whole - completed primary education. In secondary education, however, the proportion was only 17 per cent and in higher education 1 per cent. His Government provided assistance to Rom children in schools at all levels, including the award of secondary and higher-education scholarships.

20. Mrs. WELLER (Hungary) reminded the Committee that her Government was prevented by the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others, which Hungary had ratified, from taking action that might discriminate against prostitutes. It nonetheless planned to adopt such measures as were necessary to reduce prostitution and protect children by prohibiting prostitution in certain places, such as in the vicinity of schools or other places frequented by children. While prostitution was not categorized as a crime, the police were less tolerant of the prostitution of minors than of adult prostitution. Child prostitutes were therefore placed in institutions. In that regard, her delegation had high hopes of the promised additional protocol to the Convention.

21. Consent to adoption before birth could be withdrawn after birth. The aim was to prevent both abortion and infanticide. In addition, cases of mentally disabled children in institutions were periodically reviewed by the court, in the light of psychologists' recommendations.

22. On the subject of juvenile justice, she said that there were no juvenile courts, but cases involving minors were tried by specialized judges. Although some government procurators specialized in cases against minors, and the police force also had specialized staff, the same was as yet not generally true of lawyers. Detained minors were placed in special institutions - as distinct from adult prisons - for education and rehabilitation. The court was empowered to sentence a minor without a trial, with due respect for the legal guarantees, when irrefutable evidence existed and the defendant acknowledged his guilt. The sentence could only be a suspended prison sentence, a fine, a supplementary penalty such as withdrawal of a driving licence, or probation, the purpose of the procedure being to ensure that sentence was pronounced as soon as possible after the commission of the crime. The minor was always

represented by a lawyer. A new measure aimed at staying judgement of minors enabled 25 per cent of criminal cases against minors to be resolved without a trial.

23. Mr. HERCZEGH (Hungary) said that the ombudsman had judged the detention conditions of young offenders to be less harsh than those of adults and that the working conditions of teachers in children's institutions were better than those of guards in adult prisons. The results were encouraging: children were separated from adults and enrolled in rehabilitation and education programmes. In that connection, he mentioned an international exchange programme for young offenders conducted jointly with an institution in Dijon (France).

24. Mr. SZABO (Hungary) added that the staff in institutions for minors were trained in the handling of young offenders with the aim of preventing recidivism.

25. Mr. KOLOSOV observed that in his country, the Russian Federation, drug abuse had been decriminalized and subsequently made a crime once more. On the subject of child labour, he wished to know the working conditions in the informal sector and whether the Government and local communities were addressing the problem.

26. Mrs. PALME advised the Hungarian delegation that, pending the formulation of an additional protocol to the Convention, the provisions of the Convention and the recommendations adopted by the Stockholm World Congress against Commercial Sexual Exploitation of Children should be applied. She would like to know what stage had been reached in the preparation of the programme of action, how the Convention was covered in school syllabuses and whether it served to promote the participation of children.

27. Mr. RABAH asked for more detailed statistics on young offenders (number and disaggregation by sex). In what activities were the offenders engaged in detention establishments? Was the issue of their reintegration being addressed? Did NGOs and social workers share in that task? Were there any exchanges of young offenders among Hungarian institutions? In order to prevent recidivism, were preventive measures implemented once the offenders were released? What were the Government's plans in that regard?

28. On the subject of child labour, he referred to the country's labour legislation, which prohibited the employment of minors in work that could adversely affect their physical safety and development. He wished to know whether the adverse effects were spelled out in the legislation or whether it was left to the discretion of the courts or labour inspectors. What were the working hours of children, especially girls?

29. The CHAIRPERSON said that prepartum adoption did not conform to article 21 of the Convention on the Rights of the Child. It was incumbent on States parties to ensure that the best interests of the child were the prime consideration, and to see to it that adoption was authorized only by the competent authorities, who should ascertain, in accordance with the law and the applicable procedures, that the adoption could take place. She inquired whether the Government had the means to determine whether an adoption entailed

a financial advantage for any of the parties concerned and whether there were plans for a monitoring mechanism to protect the rights of the adopted child, especially if the parents changed their minds. She was concerned about the incubator system provided for mothers who did not wish to keep their babies. In conclusion, she asked what treatment was meted out to children who were under 14 and could not, therefore, be held criminally responsible or tried in the courts.

30. Mr. HERCZEGH (Hungary), acknowledging the merit of Mr. Kolosov's remarks about the criminalization of drug abuse, stated that the Hungarian Parliament had been vigorously debating the issue for the past eight years. With regard to child labour, he said that the minimum age of employment had been set at 16, rather than 15, to match the end of compulsory education at age 16. Penalties were imposed on parents whose children were found to be working illegally. However, unlike illegal work by adults, child labour did not pose a serious problem in Hungary. Replying to Mrs. Palme, he said that the Declaration and Programme of Action of the Stockholm Congress had been approved by his Government. The question of children's participation was covered by syllabuses, but government officials played a very limited role in that respect, being mainly concerned with creating an institutional framework to enable children to exercise their rights. His Government was well aware that for 40 years children and young people had received training that had been totally unrelated to the country's actual situation.

31. On the subject of prepartum adoption, he said that no agreement signed prior to the child's birth was legally binding. Child adoption was a protracted and complex process that could only occur after the child was born. The parents could not reverse their decision once the child had been adopted. Nevertheless, the Government was trying to combat abortion, and it was not uncommon for a girl who did not want to keep her baby to enter into a non-binding contract with someone wishing to look after it. That situation was giving rise to a plethora of complex philosophical discussions which were certainly not in the best interests of the child.

32. Turning to prostitution and sexual abuse, he said that boys and girls received identical treatment in that area. Hungarian criminal law also punished the instigator of any act of prostitution. On the subject of police training, he explained that specialized courses on human rights and children's rights were given at the police training college. Attempts were being made to attract more young people into the social welfare service (notably as probation officers) and to improve their working conditions.

33. Mr. SZABO (Hungary), on the subject of alternative measures in the event of a non-custodial sentence, said that there were plans for a system of supervised education and that a home counselling scheme had been instituted.

34. Mrs. WELLER (Hungary) said that prison establishments focused on the education and social rehabilitation of young offenders. The measures taken in that regard would be described in detail in Hungary's next report.

35. Mr. SZABO (Hungary), replying to the question concerning statistics on young offenders, said that the number of offenders between 14 and 18 had risen from 4,082 in 1980 to 7,273 in 1996. In 1995, 544 out of 8,173 young offenders had been girls, as against 496 in 1996. The age breakdown was covered in other statistics.

36. Mrs. WELLER (Hungary) said that a criminal record system did exist for children and was maintained some time after the sentence had been served, but usually not as long as for adults. In response to the Chairperson, she pointed out that corruption had been covered under "Crimes against morality" in the statistical table appended to the report.

37. The meeting was suspended at noon and resumed at 12.10 p.m.

38. The CHAIRPERSON invited Committee members to make their final observations and recommendations on Hungary's initial report.

39. Mr. KOLOSOV considered the dialogue and the document submitted to have been constructive. The report had perhaps erred on the side of succinctness, even taking account of the fact that the statistical tables and legal provisions had been consigned to the annexes. Hungary seemed to be experiencing a period of difficult economic transition in which children were sometimes the losers. However, it was to be hoped that the transition would very soon be completed under the aegis of the European Union. The information supplied was positive in many respects (compulsory education to age 16; 18 as the age for conscription; children not permitted to work until they had completed compulsory schooling), all of which was in line with the Convention. However, further efforts should be made to incorporate its provisions into domestic law. He hoped that the delegation that would be presenting the second report in five years' time would be able to announce that the harmonization had been completed.

40. Referring to the section of the report devoted to civil rights and freedoms, he felt that much more could be done to instruct judges, the police, social workers and everyone working with or for children in the provisions of the Convention. Mere incorporation of the Convention into school syllabuses did not suffice. Where family environment and alternative care were concerned, there was perhaps some cause for concern that children were not always dealt with very humanely within the family and in society, particularly by the police. Health services appeared to be satisfactory, according to the section on health and welfare. Children enjoyed access to medical care and social assistance, despite the dearth of resources which naturally placed constraints on the exercise of that right. There was perhaps scope for greater consideration, both in legislation and in everyday life, of the principles formally enshrined in the Convention regarding, inter alia, the need to heed children's views and encourage them to play a part in promoting their own rights. A few defects notwithstanding, the system of education, leisure and cultural activities would appear to be adequate in principle. With regard to special protection measures, it appeared that there was no problem of exploitation of child labour, but there was widespread prostitution, drug addiction and alcoholism among children.

41. One possible way of improving implementation of the Convention was to recognize NGOs as full partners of the Government. NGOs could be very useful in the area of monitoring. Hungary was on its way to becoming a model State in terms of implementation of the Convention. Two very important bodies had already been put in place: a Coordination Council for Children and Youth Affairs, chaired by the Prime Minister, and the Conciliation Council for Children and Youth Interests, which brought together government officials and representatives of NGOs. The budget's transparency was a positive factor, but the decentralization of budgetary responsibility to the local authorities, while generally recommended, tended to overshadow the fact that the central authorities were responsible for honouring their international obligations. In the final analysis, the State was responsible for the well-being of every child, regardless of local politics. That, perhaps, was a point which should be given some thought, even in Hungary.

42. He would suggest to the delegation that the country should take the opportunity to promote and disseminate the Convention in Hungary through the media. As far as the Committee was concerned, the situation of all children was important, even when only a few experienced difficulties, as in Hungary. He extended his best wishes to the children of Hungary and expressed the hope that their situation would improve in the coming years.

43. Mrs. PALME endorsed Mr. Kolosov's comments, especially with regard to the Coordination and Conciliation Councils, which were, as had been observed, unique in Europe and could serve as models for many countries. That being said, it appeared that the Convention was not applied in certain sections of society, in particular, to Rom children. While the Hungarian delegation had spoken of the Government's implementation of plans in that regard, the progress of those plans needed to be monitored. In particular, it was not right that so few Rom children should receive higher education. It was also necessary to develop fruitful interaction and dialogue between adults and young people, rather than leave children to face their problems alone. Other points that gave cause for concern were tolerance of early marriages and the fact that mothers could abandon their infants in incubators at the entrance to hospitals, a barbaric practice that had no place in modern society.

44. Mr. RABAH expressed concern about the gaps noted in the domestic legislation, all the more so since Hungary had not expressed any reservation when it had ratified the Convention. It was also very disturbing that a country like Hungary should have so many young offenders. There was need for a new system of rehabilitation in special establishments, followed by their return to their families so that they could play a role in society. The fact that young people were neglected, not to say mistreated, in judicial terms because the country had no special juvenile courts was a time bomb waiting to explode under Hungarian society. It was to be hoped that the Government and Parliament would look into that problem, particularly in collaboration with Hungary's very numerous NGOs.

45. The CHAIRPERSON stressed that Hungary had ratified the Convention without expressing any reservations and that it had set up quite exceptional institutions which showed that the Government saw the NGOs as partners, even though it was still difficult to assess the division of labour between them and the Government. It was also important for children to share in the

formulation of child policy. The Hungarian delegation would doubtless have grasped the gist of the Committee's recommendations through the questions it had been asked. By and large, one could say that it was the right time for Hungary to implement the Convention, inasmuch as it was going through a democratization process which was in keeping with the spirit of the Convention. In fact, the Convention expressed holistically the idea of the human dignity of the child. The democratization process was simply the recognition of the dignity of the human person. Accordingly, the Convention was a code of ethics not only for behaviour towards children, but on the way society should be developed and thereby improved. That was a development process from which no one must be excluded. That was why one of the Committee's prime concerns was the situation of the Roma. There could be no genuine democratization unless the problem of the Roma was resolved once and for all and they were involved in the process. One of the Committee's main recommendations would therefore be the translation of the Convention into one of the Roma's three languages or, at the very least, a language they understood. The process was an ongoing one; improving the situation of children was always hard work and called for adequate financial resources for the law to be enforced on the ground in day-to-day life. No subject - not even the most problematic, such as incest - should be taboo in that process. Attitudes needed to be changed; for instance, the family should not be considered a fortress whose privacy could not be violated, for such an approach jeopardized the interests of any child who was mistreated in his or her own family. The Convention should be viewed in its entirety and account taken of the interdependence of all its articles in assigning the highest priority to the idea of the human dignity of the child. She thanked the Hungarian delegation for its patience and enlightening replies, and extended her best wishes to the children of Hungary.

46. Mrs. SZEGO BOKORNE (Hungary), while entirely endorsing those conclusions, asked the Committee to specify the lacunae in Hungary's domestic legislation to which it had referred. In her view, they surely had fewer adverse repercussions on children than did the economic difficulties facing the country. She agreed with the Committee that the realization of children's rights was an ongoing process. The Government's approach comprised two components which informed all its actions. The first concerned material aspects, which had a very marked impact on the situation of children during Hungary's current period of transition and economic restructuring. In that respect, it was vital for the State to define the role it should play in guaranteeing economic, social and cultural rights in cooperation with NGOs, given the indivisibility of human rights, as underscored in numerous United Nations instruments, of which the Convention was one. Guaranteeing economic, social and cultural rights was vital for children, but it should be borne in mind that the State also had a protective role to play.

47. The second component of government action consisted in changing the philosophy of human rights and society's entire attitude to those rights. The Government's purpose was to uphold the principles whereby human rights were subjective rights of the individual, and the guarantee of those rights, without discrimination or prejudice, was the cornerstone of democracy. That idea was clearly reflected in the Convention, but while much remained to be done in the area of realization of human rights in general, the task was even harder when it came to upholding that principle with regard to children, who

were often still considered as dependent on their parents or on adults. Society must be made to realize that children had their own personality and must be treated according to their age and their maturity as responsible individuals, capable of sharing in decision-making. Gaining acceptance for that philosophy in the field of human rights was the most important task facing Hungarian society. The Committee had done a great deal to ensure that that task was clearly defined, and had contributed to the cause of children by promoting awareness of the need for the continued realization of human rights and the rights of the child. She thanked the Committee and assured it that her Government would fully study all its observations.

The meeting rose at 12.50 p.m.